

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHERRISH CASTANEDA,

Plaintiff,

v.

STATE OF CALIFORNIA
DEPARTMENT OF MOTOR VEHICLES,
et al.,

Defendants.

No. 2:24-cv-00788-DC-SCR (PS)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. Nos. 2, 6)

Plaintiff Cherrish Castaneda is proceeding *pro se* and *in forma pauperis* with this civil action. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 16, 2024, the assigned magistrate judge screened Plaintiff's complaint and issued findings and recommendations finding Plaintiff fails to state a cognizable claim for relief, due in large part because Plaintiff's "complaint is difficult to read and appears incomplete," and thus the magistrate judge was "unable to discern with certainty Plaintiff's claims and the basis for them." (Doc. No. 6.) Nonetheless, the magistrate judge noted that Plaintiff appears to be asserting claims under 18 U.S.C. §§ 241 and 242; 42 U.S.C. § 1983 for First Amendment retaliation; and Title I of the Americans with Disabilities Act ("ADA") for discrimination, hostile work environment, constructive discharge, and retaliation. (*Id.* at 5.) As to any claims brought under 18

1 U.S.C. §§ 241 and 242, the magistrate judge explains that those statutes do not provide a private
2 right of action, and therefore recommends that those claims be dismissed with prejudice. (*Id.*) As
3 for any § 1983 and ADA claims, the Eleventh Amendment bars claims brought against Defendant
4 State of California Department of Motor Vehicles (“DMV”), so the magistrate judge likewise
5 recommends that those claims brought against Defendant DMV be dismissed with prejudice. (*Id.*)
6 But as to the § 1983 and ADA claims brought against Defendant Gordon and Does 1–1000, the
7 magistrate judge concluded that granting leave to amend to cure the deficiencies identified would
8 not be futile. (*Id.* at 6–10.) Thus, the magistrate judge recommends dismissing those claims with
9 leave to amend. (*Id.* at 13.) In addition, the magistrate judge recommends Plaintiff’s motion for a
10 preliminary injunction (Doc. No. 2) be denied because she fails to state a cognizable claim for
11 relief. (Doc. No. 6 at 11–12.)

12 The pending findings and recommendations were served on the parties and contained
13 notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at
14 13.) To date, no objections to the findings and recommendations have been filed, and the time in
15 which to do so has now passed.

16 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
17 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
18 findings and recommendations are supported by the record and proper analysis.

19 Accordingly:

- 20 1. The findings and recommendations issued on December 16, 2024 (Doc. No. 6) are
21 ADOPTED in full;
 - 22 a. Plaintiff’s claims against all Defendants brought under 18 U.S.C. §§ 241
23 and 242 are dismissed with prejudice;
 - 24 b. Plaintiff’s claims brought under § 1983 and the ADA against Defendant
25 Steve Gordon and Does 1–1000 are dismissed with leave to amend;
 - 26 c. Plaintiff’s claims brought against Defendant State of California
27 Department of Motor Vehicles are dismissed with prejudice;
- 28 2. Defendant State of California Department of Motor Vehicles is dismissed from

this action;

3. Plaintiff's motion for a preliminary injunction (Doc. No. 2) is DENIED;
4. Within thirty (30) days from the date of this order, plaintiff may file a first amended complaint;
5. The Clerk of the Court is directed to update the docket to reflect that Defendant State of California Department of Motor Vehicles has been terminated; and
6. This action is referred back to the assigned magistrate judge for further proceedings.

IT IS SO ORDERED.

Dated: February 5, 2025


Dena Coggins